

1
2
3
4
5
6
7 CHRISTIAN GREMMELS,
8 Plaintiff,
9 v.
10 APPLE, et al.,
11 Defendants.

Case No. 21-cv-06073-SK

ORDER GRANTING *IN FORMA PAUPERIS* APPLICATION AND SCREENING COMPLAINT

Regarding Docket Nos. 1, 2

12 Plaintiff Christian Gremmels (“Plaintiff”), proceeding pro se, filed a complaint and
13 application to proceed *in forma pauperis*. (Dkts. 1, 2.) The Court may authorize a plaintiff to file
14 an action in federal court without prepayment of fees or security if the plaintiff submits an
15 affidavit showing that he or she is unable to pay such fees or give security therefor. 28 U.S.C. §
16 1915(a). The Court finds that Plaintiff has demonstrated that he is unable to pay the filing fee and
17 thus GRANTS the application for IFP. However, the *in forma pauperis* statute provides that the
18 Court shall dismiss the case if, *inter alia*, the Complaint is frivolous or malicious, or fails to state a
19 claim on which relief may be granted. 28 U.S.C. § 1915(e)(2). Moreover, federal courts are under
20 a duty to raise and decide issues of subject matter jurisdiction *sua sponte* at any time it appears
21 subject matter jurisdiction may be lacking. Fed. R. Civ. P. 12; *Augustine v. United States*, 704
22 F.2d 1074, 1077 (9th Cir. 1983). If the Court determines that subject matter jurisdiction is
23 lacking, the Court must dismiss the case. *Id.*; Fed. R. Civ. P. 12(h)(3).

24 Federal Rule of Civil Procedure 8(a)(2) requires “a short and plain statement of the claim
25 showing that the pleader is entitled to relief.” To comply with Rule 8, “[s]pecific facts are not
26 necessary; the statement need only give the defendant fair notice of what the . . . claim is and the
27 grounds upon which it rests.” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations omitted).
28 While a complaint need not provide detailed factual allegations, it is “a plaintiff’s obligation to

1 provide the ‘grounds’ of his ‘entitle[ment] to relief.’” *Bell v. Atlantic Corp. v. Twombly*, 550 U.S.
2 544, 555 (2007) (citations omitted). Plaintiff must provide more than assert “labels and
3 conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Id.*
4 Rather, the plaintiff must provide sufficient factual allegations “to state a claim to relief that is
5 plausible on its face.” *Id.* at 570. To state a claim, Plaintiff must allege the following information
6 in an amended complaint: (1) the actions by each Defendant that gave rise to Plaintiff’s claims; (2)
7 what laws or rights were violated by each Defendant’s conduct, and (3) how Plaintiff was harmed.
8 It is not clear from the Complaint what claim or claims Plaintiff seeks to assert. Additionally,
9 Plaintiff groups all of the Defendants together and, thus, the Court cannot determine what Plaintiff
10 alleges each Defendant did.

11 Moreover, federal courts are courts of limited jurisdiction. *See, e.g., Kokkonen v.*
12 *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Federal courts can only adjudicate cases
13 which the Constitution or Congress authorize them to adjudicate: those cases involving diversity
14 of citizenship (where the parties are from diverse states), or a federal question, or those cases to
15 which the United States is a party. *See, e.g., Kokkonen v. Guardian Life Insurance Co. of*
16 *America*, 511 U.S. 375 (1994). Federal courts are presumptively without jurisdiction over civil
17 cases and the burden of establishing the contrary rests upon the party asserting jurisdiction. *Id.* at
18 377.

19 To the extent Plaintiff is asserting a claim under federal law, Plaintiff shall clarify what
20 statute and what facts are alleged in support of that claim. If Plaintiff states sufficient facts to
21 allege at least one federal claim, Plaintiff shall allege facts to show how any state-law claims are
22 connected to the federal claim to support supplemental jurisdiction. To the extent Plaintiff is
23 relying on diversity jurisdiction, Plaintiff shall clarify the citizenship of all parties and allege facts
24 to show that the amount in controversy exceeds \$75,000.

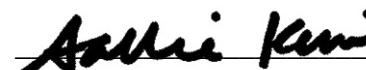
25 Pursuant to 28 U.S.C. § 1915, the Court HEREBY DISMISSES Plaintiff’s complaint, but
26 will provide leave to amend to address the deficiencies described in this Order. Plaintiff’s
27 deadline to file an amended complaint is **October 8, 2021**. If Plaintiff fails to file an amended
28 complaint by this date, the Court will reassign this matter to a district court judge with a

1 recommendation that the action be dismissed.

2 The Court ADVISES Plaintiff that the district court has produced a guide for *pro se*
3 litigants called Representing Yourself in Federal Court: A Handbook for *Pro Se* Litigants, which
4 provides instructions on how to proceed at every stage of your case, including discovery, motions,
5 and trial. It is available electronically online (<http://cand.uscourts.gov/prosehandbook>) or in hard
6 copy free of charge from the Clerk's Office. The Court further advises Plaintiff that he also may
7 wish to seek assistance from the Legal Help Center.

8 **IT IS SO ORDERED.**

9 Dated: September 8, 2021

10 
11 SALLIE KIM
United States Magistrate Judge

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
Northern District of California